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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,284	10/23/2006	Per Aberg	1304-7	3128
28349 7590 05/10/2010 DILWORTH & BARRESE, LLP 1000 WOODBURY ROAD SUITE 405 WOODBURY, NY 11797				
EXAMINER				
RALIS, STEPHEN J				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
05/10/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/581,284

Applicant(s)

ABERG, PER

Examiner

STEPHEN J. RALIS

Art Unit

3742

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-9 16 17 21 23 24 and 26-31.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Stephen J Ralis/
Primary Examiner, Art Unit 3742

Continuation of 3. NOTE: The limitations of at least "pulsing between short arc welding and the short pulsing welding during a root run, and pulsing between the spray arc welding and short pulsing welding during a sealing run" and "comprising means for pulsing between short arc welding and the short pulsing welding during a root run, and pulsing between the spray arc welding and short pulsing welding during a sealing run." (emphasis on "pulsing", "pulsing between", "during a root run" and "during a sealing run") as recited in dependent claims 28 and 29 have not been previously presented and would require further consideration and/or a new search. The examiner respectfully requests that applicant direct the examiner to the disclosure for any new recited limitations to ensure no new matter has been recited.

In addition, all arguments set forth in the instant after-final amendment are well taken, however, the rejections of the claims under at least the prior art of Hsu (International Publication No. WO 03/076114 A1) in view of Aberg et al. (U.S. Patent No. 6,388,233) and Morlock (U.S. Patent No. 5,773,779) in view of Aberg et al. (U.S. Patent No. 6,388,233), both in further view of Takeuchi et al. (U.S. Patent No. 4,621,183) and Inoue et al. (Japanese Publication No. JP 2003126989A) (and variations thereof) are sustained for the reasons set forth in the final Office action.

Specifically, Hsu discloses a welding method for gas metal arc welding with continuous electrode feeding (page 1, lines 12-14; page 13, claim 1), comprising the steps of conducting spray arc welding (constant voltage spray process; page 2, lines 19-21), conducting short pulsing welding (pulsed GMAW welding process; page 2, lines 19-21), alternating cyclically between the short pulsing and the spray arc welding without intentionally extinguishing the arc in between the pulsing and spray arc welding, and pre-programming duration or time for at least one of the pulsing and spray arc welding prior to beginning (whole document). There is no recitation to how "short" or what designates how "short" the "short pulsing welding" is. Therefore, the disclosure to pulsed GMAW welding process (page 2, lines 19-21) is deemed to have pulses and the pulses a further deemed to be relatively short as designated in Figures 3, 4). Therefore, Hsu fully meets "short pulsing welding" given its broadest reasonable interpretation.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., to obtain sufficient penetration and, at the same time, prevent the weld pool from running downwardly during welding, setting of parameters to attain just the right amount of heat into the weld pool, is critical) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Hsu disclose setting the number of counts each process occurs and then cyclically alternating to the next process. This setting of counts essentially is setting up the frequency at which the cyclic cycling occurs (page 1, lines 17-23; page 9, line 1 - page 10, line 12; see Figure 1). Therefore, Hsu fully meets "determining the duration or time for the pulsing by a frequency for cyclic alternating between the pre-programmed pulsing and spray arc welding" given its broadest reasonable interpretation.

With respect to applicant's argument to Morlock not being an automated process, the examiner respectfully disagrees. Morlock discloses a high performance digitally controlled power supply with complex, high speed waveform control (column 4, line 39 - column 5, line 36; column 10, line 35 - column 11, line 3) that controls the immediate switching between constant voltage spray welding and then an appropriately control pulsed welding process. Clearly this controller would be pre-programmed with the duration or time of each welding process event in order to automatically control the cyclically between short pulsing and the spray welding as disclosed in Figure 13 or the welding process would not perform as disclosed. Therefore, Morlock is deemed to be an automated process.

With respect to applicant's argument to "welding vertical V-joints in aluminum or stainless steel material 5-10 mm, thick without weaving, the examiner respectfully agrees. Hence why the prior art of Inoue et al. (Japanese Publication No. JP 2003126989A) was cited. NOTE: the examiner asserts that Inoue et al. was provided to applicant in the Office action, mailed 23 December 2009, as well as cited in the body of the rejections of claims 30 and 31. Furthermore, the examiner inadvertently did not include Inoue et al. (Japanese Publication No. JP 2003126989A) in the rejection statement. However, since the examiner provided a copy of Inoue et al. and the rejections of claims 30 and 31 explicitly cite both Inoue et al. and Takeuchi et al., the limitations are deemed addressed and the Office action is deemed Final.